

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference C002460-0003	FOR FURTHER ACTION	See item 4 below
International application No. PCT/US2005/010943	International filing date (<i>day/month/year</i>) 31 March 2005 (31.03.2005)	Priority date (<i>day/month/year</i>)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant THE COLMAN GROUP, INC.		

1.	This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 <i>bis</i> .1(a).																								
2.	This REPORT consists of a total of 6 sheets, including this cover sheet. In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.																								
3.	<p>This report contains indications relating to the following items:</p> <table style="width: 100%;"> <tr> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 30%;">Box No. I</td> <td style="width: 60%;">Basis of the report</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input checked="" type="checkbox"/>	Box No. VII	Certain defects in the international application	<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application
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<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application																							
4.	The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).																								

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Date of issuance of this report 10 March 2009 (10.03.2009)
Facsimile No. +41 22 338 82 70	Authorized officer <div style="text-align: center; font-weight: bold;">Athina Nickitas-Etienne</div> e-mail: pt04.pct@wipo.int

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
ADAM BROOKMAN
PILIERO GOLDSTEIN KOGAN & MILLER, LLP
207 E. MICHIGAN ST.
SUITE 410
MILWAUKEE, WI 53202

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing
(day/month/year) **07 APR 2008**

Applicant's or agent's file reference

C002460-0003

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/US05/10943

International filing date (day/month/year)

31 March 2005 (31.03.2005)

Priority date (day/month/year)

31 March 2004 (31.03.2004)

International Patent Classification (IPC) or both national classification and IPC

IPC: **B65D 6/00**(2006.01);**A47K 11/00**(2006.01);**F25D 3/08**(2006.01)

USPC: 220/675;4/144.1-144.4;62/457.2

Applicant

THE COLMAN GROUP, INC.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US

Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Facsimile No. (571) 273-3201

Date of completion of this opinion

27 March 2008 (27.03.2008)

Authorized officer

Cheryl Tyler

Telephone No. 571-272-3700

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US05/10943

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:
 - ☒ the international application in the language in which it was filed
 - ☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).
2. ☐ This opinion has been established taking into account the rectification of an obvious mistake authorized by or notified to this Authority under Rule 91 (Rule 43bis.1(a))
3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, this opinion has been established on the basis of:
 - a. type of material
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material
 - ☐ on paper
 - ☐ in electronic form
 - c. time of filing/furnishing
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in electronic form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
4. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
5. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
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Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>7 and 16</u>	YES
	Claims <u>1-6,8-15,17 and 18</u>	NO
Inventive step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-18</u>	NO
Industrial applicability (IA)	Claims <u>1-18</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and explanations:

Claims 1-6, 8-15 and 17-18 lack novelty under PCT Article 33(2) as being anticipated by Rentsch. Regarding claims 1-6, 8-15 and 17-18, Rentsch discloses device (fig. 1) for chilling warm material comprising: a body (20) having at least a partially hollow interior (interior of 20 is hollow); a mouth (where cap 24 is covering) situated on said body (explicitly shown) providing access to the hollow interior of said body, wherein said mouth is located below the top of said body such that when the hollow interior of said body is filled with liquid (col. 2 lines 11 and 12), at least a portion of the hollow interior remains unfilled with the liquid (depending on how much liquid is in the device); and a cover (24) for said mouth comprising a hollow area extending above said body (a small part of the cover will extend above body when partially closed) to provide for expansion of liquid into the hollow area of the mouth when said body is filled with liquid and then frozen or otherwise exposed to an environment that causes the liquid with which said body is filled to expand (capable of being performed); wherein the device cannot be overfilled (depending on how much liquid is filled in the container); wherein said mouth is sized to accommodate ice cubes (explicitly shown); said body includes a handle (22); wherein at least a portion of said handle is part of said body that extends above said mouth (explicitly shown, and depends on how the device is rotated); a means for hanging said device (area of 30 around 28 on handle 22 can be used for hanging); wherein said cover includes a handle (36); wherein at least a portion of said handle is part of said hollow area of said cover that extends above said mouth (a small part of the cover will extend above body when partially closed); wherein said means for hanging said device is part of said cover (explicitly shown). Regarding claims 16 and 17, Rentsch discloses a method for chilling warm material comprising the steps of: Providing a body (20) having a mouth (where cap 24 is covering) and at least a partially hollow interior (20 is hollow), wherein said mouth is located below the top (depending on the angle of the device) of said body such that said body includes hollow interior space above said mouth (cover 24 has a hollow space); filling the interior of said body through said mouth with a liquid (col. 2 lines 11 and 12); sealing said mouth with a cover (24) comprising a hollow area extending above said body (a small part of the cover will extend above body when partially closed); chilling said body such that said liquid in the interior of said body is chilled (can be chilled); permitting said chilled liquid to expand into the hollow interior space of said cover (the liquid can expand depending on the amount of liquid in the device); and placing said body in a warm material to cool said material (the air can be warm but colder than the material in the device).

Claims 7 and 16 lack an inventive step under PCT Article 33(3) as being obvious over Rentsch as applied to claims 1 and 8 above, and further in view of Shteynberg. Regarding claims 7 and 15, Rentsch discloses all the limitations of the claimed invention, but fails to disclose a device for ascertaining the temperature of liquid in said hollow interior of said body. Shteynberg teaches the limitation of providing a device for ascertaining the temperature of liquid in said hollow interior of said body (fig. 6, col. 5 line 63 – col. 6 line 10). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Rentsch to include the temperature ascertaining device as taught by Shteynberg in order to prevent the overcooling or under heating of a liquid, thus preserving the liquid.

Claims 1-18 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/US05/10943

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

Claims 1-17 are objected to under PCT Rule 66.2(a)(iii) as containing the following defect(s) in the form or contents thereof: Claims 1,2,3,4,5,6,7,8,9,10,11,12,12,13,14,15,16,17 should be renumbered to read – 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18--.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the questions whether the claims are fully supported by the description, are made:

Claims 17 and 18 are objected to under PCT Rule 66.2(a)(v) as lacking clarity under PCT Article 6 because claims 17 and 18 are indefinite for the following reason(s): The limitation "placing said body in a warm material to cool said body" is somewhat unclear in context, since it is not entirely clear as to how something can be cooled in a warm material. For examination purposes, the aforementioned limitation will be interpreted as best understood.